

REMARKS

Applicant would like to thank the Examiner for the courtesy shown applicant and his representatives during the interview conducted on February 19, 2004. In addition to the examiner, the applicant, Mr. Fred Jordan and his representatives, Mr. John Schneider and Dr. Donald Payne were also present. During the interview, agreement was reached with respect to the claims submitted in applicant's co-pending application USSN 10/084,237 as well as the present application. The amendment above conform to the agreement reached on February 19, 2004.

New claims 24 - 51 are directed to various additives useful in fossil fuels and Claims 52 - 78 are directed to fossil fuels using the novel additives. Support for these claims can be found throughout the specification most notably paragraphs 0051 - 53 (plant oil extracts), 0062 - 65 (carotenoids), and paragraphs 68 and 79 (thermal stabilizers).

The Examiner rejected the pending claims under the judicially created obviousness-type-double patenting. Following the indication would allow co-pending application USSN 10/084,602, applicant agreed to submit a terminal disclaimer in the present application to obviate this rejection. A copy of the terminal disclaimer accompanies this response.

The Examiner rejected some of the claims under 35 USC §112. Those claims have been canceled rendering the rejection moot.

The Examiner has also rejected the original and claim as anticipated by U.S. Patent 5,826,369 to Jordan or as obvious in lieu of its teachings. Applicant respectfully submits that new claims 1 to 54 are not anticipated by the '369 patent.

As the Examiner noted, the '369 patent teaches a fuel additive comprising beta-carotene, chlorophyll, ethoxylated castor oil, jojoba oil and alkyl nitrates. The present claims do not include jojoba oil or contain plant extracts other than those defined in the '369 patent. Thus the '369 patent does not anticipate the pending claims.

With respect to the obvious rejection, there is nothing within the '369 patent to teach or suggest using the plant extracts presently claimed or the oils claimed.

The teaching or suggestion to make the substitution must come from the reference itself. Thus the new claims are not obvious in light of the teachings of the '369 patent.

Turning to the Schur patent, it does not anticipate the pending claims. No where does Schur teach the use of the specific plant extracts recited in the claims nor does it disclose the plant oils used in the invention. Thus it does not anticipate the present claims.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.


CONCLUSIONS

Applicant submits that the new claims are free of the art and are in condition for allowance.

Applicant believes there is a fee due with this response, which is attached. However, additional fees are due, please charge our Deposit Account No. 06-2375, under Order No. P02946US0 (AKA ORYXE.013A) from which the undersigned is authorized to draw.

Dated: February 26, 2004

Respectfully submitted,

By 
John E. Schneider
Registration No.: 31,998
FULBRIGHT & JAWORSKI L.L.P.
1301 McKinney, Suite 5100
Houston, Texas 77010-3095
(713) 651-5151
(713) 651-5246 (Fax)
Attorney for Applicant